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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,658	10/28/2003	Donald F. Gordon	007412.00275	4003
71/867 7590 05/29/2012 BANNER & WITCOFF, LTD ATTORNEYS FOR CLIENT NUMBER 007412 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
BROWN, RUEBEN M				
ART UNIT		PAPER NUMBER		
2424				
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05/29/2012		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/694,658

**Applicant(s)**

GORDON ET AL

**Examiner**

REUBEN M. BROWN

**Art Unit**

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 15, 17-20, 22-36 and 39-47 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 19-20, 22, 33 & 46 is/are allowed.
- 7) ☒ Claim(s) 15, 17, 31, 32 and 34-36, 39-45 & 47 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/15/2010 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 15, 34 & 39 are rejected under 35 U.S.C 112, 2<sup>nd</sup> paragraph as lacking antecedent basis. Considering claim 15, the instant claim recites the limitation "said predetermined *time* period" in line 12 (emphasis added). There is insufficient antecedent basis for this limitation in the claim. It is noted that in line 7 of the instant claim, the limitation "a predetermined period" is recited, which is different and more broad than the claimed "said predetermined *time* period", recited in line 12 (emphasis added). Correction is required. Claims 34 and 39 are likewise rejected for the same reasons.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 15, 17, 32, 34 & 39 rejected under 35 U.S.C. 102(e) as being anticipated by Thompson, (U.S. Pat # 6,160,546).

Considering claim 15, the amended claimed method of providing a plurality of programs to at least one information subscriber equipment, comprising;

Considering amended claim 15, the claimed method providing program guide information to at least one terminal, comprising;

*'generating by a server, for a plurality of channels, a first program guide video stream comprising a plurality of video frames including images of a first program guide screen, the first program guide screen comprising programming offered by each of the first plurality of channels during a predetermined period'*, reads on the teaching in Thompson that the television distribution facility, TVDF 16 includes a local promotion unit 28 that may provide program listings to a plurality of TV units 24 as a series of successive pages, see col. 6, lines 56-67 thru col. 7, lines 1-9. These series of successive pages would be limited by a predetermined time period, since Thompson teaches that the program listings region 40 preferably has 2-4 separate time slots of program listings (i.e., enough for 1-2 hours of programming). Thompson specifically teaches that the local promotion unit 28 receives configuration and display data 34 that includes television schedule data and from that, generates program listings, which reads on the corresponding claimed subject matter; see col. 5, lines 38-55.

As for the additionally claimed ‘...*plurality of video frames...*’, Thompson teaches that the local promotion unit 28 also receives video stream(s) and/or graphics to be inserted into a particular area of the EPG screen. These video stream(s) are in fact inserted into the EPG screen (namely the promotional information are 38, see Figs. 3-4) with a particular position, size, shape and color that are determined by the video control commands received by the local promotion unit 28, see col. 5, lines 16-38 & col. 6, lines 12-24. Thus, it is clear that the EPG is rendered at the local promotion unit 28 as actual video frames and transmitted as such, to the plurality of TV units 24.

*‘generating by a server, for a second plurality of channels, a second program guide video stream comprising a plurality of video frames including images of a second program guide screen, the second program guide screen comprising programming offered by each of the second plurality of channels during the predetermined time period’*, reads on the next time period of program listings transmitted by the local promotion unit 28. For instance, Figs. 3-4, all show the example of the predetermined time period being 4:00-5:00. Inherently, Thompson also generates and transmits EPG listings for the next predetermined time period, as well.

*‘transmitting to the at least one terminal, the first and second program guide video streams, the first and second program guide video streams being temporally aligned according to the predetermined time period and wherein the server is located remotely from the at least one terminal’*, as mentioned above the local promotion unit 28 inherently transmits multiple time periods of EPG listings to the plurality of TV units 24. The local promotion unit 28 is located

remotely from the instant TV units 24; see col. 4, lines 41-55, since they are connected by a distribution link 26, such as CATV, microwave, fiber optic, satellite, etc.

Considering claim 17, Thompson necessarily repeats the steps for transmitting the relevant EPG listings to the clients TV units 24.

Considering claim 32, since Thompson is directed to transmitting EPG listings to terminals, the system necessarily transmits listing of more than just the channels shown in Figs. 3-6.

Considering claim 34, the claimed apparatus, comprising elements that correspond with subject matter mentioned above in the rejection of claim 15, is likewise treated. As for the additionally claimed processor & memory, the TVDF 20, comprising the local promotion unit 28 of Thompson meets the language, see col. 4, lines 55-67 thru col. 5, lines 1-17.

Considering newly added claim 39, the claimed method of receiving at a terminal from a server located remotely from the terminal, a first program guide stream...; ... a second program guide stream..., and displaying the first and second program guide streams on a display device, correspond directly with subject matter mentioned above in the rejection of claim 15, and is likewise treated.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 18, 35, 40 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson, in view of Rosengren, (U.S. Pat # 5,633,683).

Considering claims 18, 35, 40 & 43, Thompson does not teach the additionally amended claimed subject matter of, *'encoding each of the first and second program guide video streams as a single logical stream, combining the plurality of logical streams having a predefined time period into a single physical stream; and transporting to the at least one terminal the single physical stream'*. However Rosengren, in a related field of endeavor provides a teaching of a system that receives a plurality of video streams and combines them into a single physical channel, see Abstract & col. 3, lines 1-50. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Thompson with the teaching of combining multiple individual video bitstreams streams into a single logical stream, transported on a single physical channel, at least for the desirable advantage of enabling the viewer to be able to select at least one stream of related subject matter from a plurality of choices, from a single tuned channel, as taught by Rosengren, see col. 1, lines 12-28; col. 1, lines 60-67 thru col. 2, lines 1-25.



5. Claims 31 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson, in view of Aristides, (U.S. Pat # 5,630,119).

Considering claims 31 & 36, Thompson does not teach that the EPG listings are received at the user terminals, as a result of request from user(s) at the terminal. Nevertheless Aristides, in a similar field of endeavor, provides a teaching of a system that transmits EPG information to a subscriber from a headend, as a result of a request from the subscriber's terminal; see col. 4, lines 49-64; col. 6, lines 19-61. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Thompson with the teaching of transmitting EPG listings to subscribers as a result of their request, at least for the advantage of providing new or updated EPG listed to the subscriber, as taught by Aristides, col. 1, lines 24-56.

9. Claims 41-42, 44-45 & 47 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson.

Considering claims 41 & 44-45 & 47, Thompson discloses that the TV unit 24 may be a conventional TV set or any suitable equipment with the ability to receive a desired TV channel, see col. 4, lines 49-52. Official Notice is taken that at the time the invention was made, it was old in the art of TV technology to use a STB to receive and/or process TV signals transmitted over a network. It would have been obvious for one of ordinary skill in the art at the time the invention

was made, to modify Thompson with the well-known STB technology, at least for the known benefits of a receiving device with more capabilities than a conventional TV set.

Considering claim 42, the claimed apparatus comprising a processor; and memory operatively coupled to the processor and storing instructions that perform the steps of claim 39, reads on the TV unit of Thompson. However, as for the specifics of the processor and memory, Thompson does not discuss the specifics of these features. Official Notice is taken that at the time the invention was made, the use of a processor and memory devices in a TV unit was old in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Thompson with the features of processor and memory, at least for the desirable purpose of providing additional features to the system, included within a processor and memory.

#### ***Allowable Subject Matter***

10. Claims 19-20, 22-30, 33 & 46 are allowable over prior art of record.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Kinghorn Provides a teaching of transmitting EPG pages to subscriber terminals that include program data and time data.
- B) Wasilewski Transmits video programming as multiplexed video streams.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/REUBEN M. BROWN/  
Patent Examiner, Art Unit 2424